***THE HONOURABLE SRI JUSTICE G. BIKSHAPATHY**

AND

*THE HONOURABLE SRI JUSTICE CH.S.R.K. PRASAD

+W.P.No.15707 of 2004

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% TWENTY NINTH DAY OF SEPTEMBER, TWO THOUSAND FOUR

All Inmates of Borstal School, Nizamabad, Nizamabad District ..Petitioner

Vs.

$ 1. The Superintendent, Borstal School, Nizamabad, Nizamabad District.

2. The Deputy Inspector General of Prisons, Nizamabad,

Nizamabad District
3. The Collector, Nizamabad District at Nizamabad
4. The Secretary to the Government of A.P., Home (Prisons)

Department, Secretariat,
Hyderabad

....RESPONDENTS

! Counsel for the petitioner: Letter

^ Counsel for the respondents: G.P. for Home

< Gist:

>Head Note

?list of cases

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

AND
THE HON'BLE MR JUSTICE CH.S.R.K. PRASAD

WRIT PETITION NO : 15707 of 2004

Between:

All Inmates of Borstal School, Nizamabad, Nizamabad District

..... PETITIONER

AND

1. The Superintendent, Borstal School, Nizamabad,
   Nizamabad District
2. The Deputy Inspector General of Prisons, Nizamabad,

Nizamabad District
3. The Collector, Nizamabad District at Nizamabad
4. The Secretary to the Government of A.P., Home (Prisons)

Department, Secretariat,
Hyderabad

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an Order, direction, or a Writ, more particularly one in the nature of Writ of Mandamus to call for records and remarks from the Respondents herein connected to (1) inhuman and barbarous custodial torture being committed by the jail officials on the inmates of the Borstal School, Nizamabad, by subjecting them to the brutal beating, and making one jail inmate naked, inserting a lathi of one inch diameter with red chilli powder in his anus, getting the helpless and crying victim's head cleanly shaven by a Borstal School barber and pushing him to hot sun by 3 inebriated jail officials, namely, (1) Kesanna, (2) Viswanatham and (3) Mamoom Masood, and enjoying on their sadistic torture on the helpless and crying jail inmate, (2) attempt by some boys to commit suicide and escape by the fearful inmates to get rid of the sadistic torture by the jail officials, and to pass appropriate orders directing the concerned authorities to Order inquiry into the matter and protect the inmates from the sadistic jail officials of the Borstal School, Nizamabad.

Counsel for the Petitioner: LETTER

Counsel for the Respondents: GP FOR HOME

The Court made the following:

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ORDER: **(PER HON'BLE SRI JUSTICE G. BIKSHAPATHY**

This Writ Petition was registered as taken up case.

2. A most heinous treatment and unheard of Government excesses have seen the light of the day. Tiny letter became nightmare and troubleshooter for the offences of the Government Borstal School, Nizamabad. We have been noticing inhuman and ill-treatment of the convicts, but this epidemic appears to have spread to the Borstal Schools where juveniles are housed. The legislation, which established the Borstal Schools under

A.P. Borstal School Act to enable the juveniles to reach the brighter side of their life, is feeling shy to face the inmates whose future is doomed in the hands of the executives.

3. An anonymous complaint was sent on behalf of the inmates of Borstal School,

Nizamabad District, alleging inhuman and barbarous custodial tortures committed by the jail officials on the inmates of Borstal School, Nizamabad. It is also stated that the inmates were subjected to brutal beatings and inserting lathi with chilli-powder in the anus of one of the inmates. The ill-treatment made to one of the inmates driven him to commit suicide. Further, it is stated that the inmates are being beaten by making them naked.

4. After registering the case, notice was ordered to the respondents. The learned Government Pleader for Home appeared for the respondents.

5. A counter has been filed by the Deputy Inspector General of Police, Telangana Region, Hyderabad. In the counter it is admitted that since certain irregularities have been taken place, an enquiry was ordered and in that regard one Mr. M. Chandrasekhar, Superintendent of Jails, Central Prison, Cherlapally was directed to conduct the enquiry. The enquiry proceedings have been placed before the Court. The counter reveals most unhappy and agonising situation prevailing in the school. Paras 5, 6, 9 and 10 are extracted below:

> *5. I respectfully submit that as per the report submitted by the enquiry officer, Borstal inmate No. 608 M. Adinarayana stole Rs.200/- from the desk of Sri B. Vishwanatham, the then Asst. Superintendent on 28.01.2004. Thereupon, Sri B.Vishwanatham beat the inmate in the presence of the then Superintendent Sri D.Kesanna and the victim as well as other co-inmates have also stated that Sri B.Vishwanatham committed certain atrocities on the victim. I submit that the truth with regard to allegation of inserting lathi into the rectum of the inmate is under verification, as the then Medical Officer has not recorded any injuries to that effect in the medical journal on 29.01.2004 when the inmate was examined. The then Medical Officer who has since been transferred is being traced to record the statement.*
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> *6. I respectfully submit that since the allegations of atrocities were prima facie established, the Director General of Prisons & Correctional Services*

immediately initiated disciplinary action against the concerned officers.
Sri B.Vishwanatham, the then Asst. Superintendent, Borstal School, Nizamabad and presently working as Superintendent, Sub Jail, Bapatla was placed under suspension in Director General of Prisons Procs.No.EB3/460/2004-3 dated 11.09.2004. Sri Mamoon Masood who is working as Case Worker, at Borstal School was ordered to be transferred on administrative grounds pending disciplinary action and posted to a non-focal post as Jailor, District Sub Jails Officer, Srikakulam District vide Director General of Prisons Memo.No.EB3/460/2004-3 dated 13.09.2004. As
Sri D.Kesanna, the then Superintendent Borstal School, Nizamabad has since retired from service, Government were addressed vide Director General of Prisons Lr.No.EB3/460/2004, dated 13.09.2004 to initiate appropriate disciplinary action against him. A copy of the letter is herewith enclosed.

9. As regards the allegations of escape of two inmates, I respectfully submit that two inmates namely Kalla David Raju and Bathina Hari Babu escaped from Borstal School on 01.02.2004 by scaling over the wall. I submit that they were subsequently caught in Bhimavaram with a stolen motorcycle on14.02.2004. A case in crime No. 29 of 2004 under Section 379 IPC was already registered against them by Bhimavaram I Town PS dated 6.02.2004. The case of escape was earlier registered in V Town PS Nizamabad on 01.02.2004 with Cr.No.2 of 2004 under Section 224 IPC. The escapee Bathina Hari Babu was involved in 14 cases and was convicted for various terms. The second escapee Kalla David Raju was convicted in four cases. The nominal rolls are enclosed. I respectfully submit that the allegation that the above said inmates escaped from Borstal School due to harassment and torture is not true.

10. With regard to allegation of attempt to commit suicide by an inmate, I submit that it is a fact that Borstal inmate
No. 623 K.Rambabu consumed tablets (combiflam and Voviron) on 12.07.2004 during night, after he was ill treated earlier by the then Asst. Superintendent, Borstal School
Sri B.Vishwanatham. For his ill treatment of inmate Rambabu and another inmate Ramana, a case in FIR 56 of 2004 under Section 324 IPC was also registered against the Asst. Superintendent at V Town PS, Nizamabad. Subsequently, he was transferred out from the Borstal School, Nizamabad vide Head Office Procs.No.EA2/366/2004, dated 29.07.2004 on disciplinary grounds pending disciplinary action.

6. We find from the enquiry report that one

Sri B. Vishwanatham, the then Assistant Superintendent was found responsible for the beatings and other tortures committed on the inmates. It is also brought to the notice of this Court that the then Superintendent of Borstal School, Nizamabad,

since retired from service, was also present when the Assistant Superintendent had committed inhuman acts on one of the inmates.

7. We have also perused the enquiry file and the enquiry report submitted by Mr. M. Chandrasekhar, Superintendent, Central Jail, Cherlapalli. He recorded the statements of victims and the inmates as also the Barber and case-worker. He noticed as follows:

> *Report on the allegations against the administration of Borstal School, Nizamabad Especially against Sri B. Vishwanatham, the then Asst. Superintendent.*
>
> *As per the orders of the Deputy Inspector General of Prisons (Telangana Region), Hyderabad vide No. DIG (TR) /OS1/2004/5337-38, dated 24.08.2004 and enquired the inmates and other staff members in a detailed way and also recorded the statements of the following as shown below.*
>
> 1. *Statement of the M.Adinarayana,B.I.No.608*
> 2. *Combined statement of all the (13) borstal inmates.*
> 3. *Statement of Sri Vasantha Kumar, Barber.*
> 4. *Statement of Sri Mamoon Masood, Case Worker (Jailer/I/c Supdt.).*
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> *The enquires made by me has revealed certain atrocities committed by the Asst. Superintendent Sri B. Viswanadham against the borstal school inmates and in action on the part of the then Superintendent Sri Keshnna in this regard.*
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> *As seen from the statement given by M. Adinarayana, B.I. No. 608 he was undergoing punishment in the Borstal School, Nizamabad for the last (2) years. He was learning the electrical wiring works and also performing other works like cleaning. He also used to work in the office of the Asst. Superintendent Sri B. Vishwanatham. One day in the month of January he was stolen Rs.200/- from the table drawer of the Asst. Superintendent. After coming to know about the theft, the Asst. Superintendent Sri B. Vishwanatham abused and beaten him with a lathi even after accepting the guilt. He was tied up to Neam tree situated near the factory shed and then inserted the edge of a lathi, which was dusted with chilli powder, into his anus. Later his head was shaved by the barber Sri Vasantha Kumar. On the same night, the Superintendent Sri Kesanna and the Asst. Superintendent*

Sri B. Vishwanatham came to their block at about 11 P.M and took his signature and other inmate's signatures on a paper.

As seen from the combined statements given by all the thirteen borstal school inmates present in the Borstal school Nizamabad as on 28.08.2004, Sri B. Vishwanatham, Asst. Superintendent used to abuse them frequently using filthy language. The inmates have informed that, if any one of them complains about the food being given to them, he used to abuse them as under " baita thindiki, chaiki gatileni meeru

Nannu prasnistara ." If they tried to make a complaint to the Superintendent of the Borstal school he used to beat them. Thus he had beaten up Rambabu. B.I. No.623 and Ramana another inmate who was released on 27.08.2004.

Similarly he has abused, the Borstal school inmate by name David Raju for requesting him to send him to outside hospital, by using filthy language and thereby subjecting him to mental torture.

The statement given by the borstal school inmates also shows that one day during the month of January, 2004, M. Adinarayana, BI No. 608 has stolenRs.200/- from the table drawer of the Asst. Superintendent Sri B. Vishwanatham. On coming to know about the theft Sri B. Vishwanatham, Asst. Superintendent started abusing and beating up the inmate with a lathi. He did not stop beating even after the inmate confessed about the theft of the money. The B.I. No. 608 M. Adinarayana was made to be tied to the neams tree situated near the factory shed by the other borstal school inmates and all other borstal school inmates were asked to spit on his face. But the inmates seem to have refused. Then Sri B. Vishwanatham Asst. Superintendent brought the chilli powder tin from the kitchen and applied some chilli powder to the edge of the lathi and then inserted the edge of the lathi into the anus of M. Adinarayana, B.I. No.608. The borstal school inmates have told that they did not object the Asst. Superintendent Sri B. Vishwanatham fearing that he will beat them also. The whole atrocity described above was conducted by Sri B. Vishwanatham, Asst. Superintendent duly removing all the cloths of the Borstal School inmate and making him bear bodied. As a final to the atrocity, the office barber Vasantha Kumar was called and the head of the borstal school inmate was shaved off.

When this atrocity was going on the then Superintendent of borstal school Sri Kesanna was present at the scene but he did not raise any objection. Sri Mamoon Masood, case worker (Jailor) was standing at distance near the administrative office when this was going on.

As seen from the statement the same night at about 11 P.M the Asst. Superintendent Sri B. Vishwanatham and the Superintendent Sri Kesanna came to their block and took signatures of the victim B.I. No. 608 M. Adinarayana and other inmates. The inmates have told

that on that paper it was written that the tonsuring to the B.I. No.608 B. Adinarayana was carried out on the request of the inmate. The borstal school inmates have also informed that whenever such incidents occur in the borstal school, the Asst. Superintendent used to take the signatures of the Borstal school inmates on such papers.

As seen from the statement given by the Sri Vasanth Kumar Barber, Borstal School, Nizamabad, one day during the month of January in the evening, he was standing in the main gate. Sri Kesanna, Superintendent, Borstal School called him and asked to shave the head of B.I. No.608 M. Adinarayana and he carried out the orders of the Superintendent. He says that he was not aware of why the head of the B.I. No. 608 M. Adinarayana was ordered to be tonsured.

As seen from the statement given Mamoon Masood, Caseworker and at present incharge Superintendent of the Borstal School, Nizamabad he has observed the Asst. Superintendent Sri B. Vishwanatham abusing the Borstal School inmates frequently and also beating them up now and then. On 28.01.2004 he has observed the Asst. superintendent beating a borstal school inmate by name M. Adinarayana for stealing some money from his office table. He has also observed the barber Sri Vasantha Kumar shaving the head of the above borstal school inmate near the neam tree.

As seen from the statements given by the victim B.I.No.608 M. Adinarayana, all the (13) inmates of the borstal school and also the barber and the jailor, it is clear that Sri B. Vishwanatham Asst. Superintendent used to abuse the borstal school inmates using filthy language and also used to beat them now and then. Thus he has beaten up borstal school inmates K. Rambabu and Ramana. He has also abused borstal school inmate David Raju. He has also committed atrocities on B.I. No.608 M. Adinarayana on 28.01.2004 by abusing, by beating him and by inserting a lathi dusted with chilli powder into the anus and also by ordering the tonsuring of his head.

I have verified the in and out register and confirmed the date of committing of the atrocity on B.I.No.608 M. Adinarayana to be on 28.01.2004. I have also verified the medical journal of the borstal school. As seen from the Medical Journal the B.I. No. 608 M. Adinarayana was referred to government hospital Nizamabad on06.02.2004 as he was found to be suffering from "chronic anal discharge of pus' and hence he must be sent to government hospital for investigation, expert opinion and treatment.

Thus as seen from the statements recorded and also from the information forthcoming from the records, the allegations against the administration of the borstal school Nizamabad especially Sri B. Vishwanatham, Asst. Superintendent are found to be true. But there are no complaints against the present in-charge Superintendent Sri Mamoon Masood by the inmates or by staff.

The Original Statements recorded during the enquiry are submitted

herewith for kind perusal.

Sd.M.Chandrasekhar, Enquiry Officer\Superintendent

Subsequently also recorded the statements of Medical Officers and further statements of inmates.

8. We are thoroughly dissatisfied with the functioning of the school and we apprehend whether the same situation also exists in other Borstal Schools in the State. The authorities appear to have forgotten the very object of Borstal schools and their utility of the inmates in changing their destiny. Cold feet attitude of the officials at the helm of affairs, lack of constant supervision and lackadaisical conduct of officers in discharge of their respective statutes and administrative function is the result of this incident. The schools which are expected to reform the inmates as responsible citizens have created negative atmosphere, which tend to convert them as hardened criminals. We are of the considered view that normal song that appropriate disciplinary action will be taken, will not meet the ends of justice.

9. Accordingly, we issue the following directions:

a) The Government shall constitute an enquiry committee headed by a senior IAS/IPS officer and conduct the enquiry with minutous details.

b) The Government shall initiate departmental as well as criminal action against the officers concerned including the then Superintendent of Borstal School, Nizamabad and the Assistant Superintendent by name Sri B. Vishwanatham and all other persons either directly or remotely connected with the incident, if necessary, the matter relates to criminal investigation, may be entrusted to CBCID.

c) The committee shall also be directed to carry out similar enquiry in respect of other borstal schools in the State.

d) It shall be competent for the Committee to suggest ways and means to ensure the functioning of the schools more effectively and efficiently.

10. With the directions indicated above, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY,J

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CH.S.R.K. PRASAD,J

29-09-2004

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TO

1. one fair copy to the Hon'ble Mr Justice G.Bikshapathy

(for his Lordships kind perusal)

2. One fair copy to the Hon'ble Mr Justice Ch.S.R.K.Prasad

(for his lordships kind perusal)

3. The Superintendent, Borstal School, Nizamabad, Nizamabad District
4. The Deputy Inspector General of Prisons, Nizamabad,

Nizamabad District
5. The Collector, Nizamabad District at Nizamabad
6. The Secretary to the Govt.of A.P., Home (Prisons) Dept. Secretariat, Hyderabad

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